

MANAGEMENT PLAN FOR COURT REPORTING
AND RECORDING SERVICES

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ADOPTED BY COURT July 1, 1991
REVISED November 1, 2002

APPROVED BY THE JUDICIAL COUNCIL
OF THE EIGHTH CIRCUIT

March 20, 2003

RECEIVED

MAR 26 2003

RICHARD G. KOPF
U.S. DISTRICT JUDGE

United States Courts
Judicial Council of the Eighth Circuit
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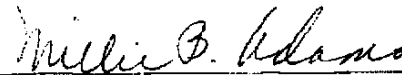
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EIGHTH CIRCUIT JUDICIAL COUNCIL

O R D E R

I hereby certify that the Eighth Circuit Judicial Council has approved the Amended Court Reporter Management Plan, as amended November 1, 2002, for the United States District Court, District of Nebraska.



Millie B. Adams
Circuit Executive

St. Louis, Missouri
March 20, 2003

cc: Judicial Council Members
Chief Judge Richard G. Kopf
Gary D. McFarland, Clerk
Administrative Office

Approval was given by the Court Reporter Management Plan.

SP01560

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I.

ADOPTION OF PLAN BY COURT

This Plan for the effective utilization of court reporters/recorders (hereafter “court reporters”) in the United States District Court for the District of Nebraska was adopted by this court subject to final approval by the Eighth Circuit Judicial Council. It has been revised on November 1, 2002, subject to final approval by the Eighth Circuit Judicial Council.

II.

APPLICABILITY OF PLAN

This Plan is applicable to all court reporters employed by the court.

III.

SUPERVISION OF COURT REPORTERS/RECORDERS

The court, en banc, delegates the following supervisory responsibilities to the Clerk of the District Court (hereafter “Clerk”):

1. The hiring and termination of court reporters, subject to the approval of the court en banc. Court reporters shall be appointed in accordance with the provisions of 28 U.S.C. Section 753 and the policies and procedures of the Administrative Office of the United State Courts and the Judicial Conference of the United States. Only reporters fully qualified pursuant to 28 U.S.C. Sec. 753 shall be appointed. Preference may be given to applicants certified as realtime reporters. Court reporters shall have no vested right of employment, and may be terminated with or without cause by the Clerk, with the approval of the court, en banc.

2. The approval or denial of leave, including annual leave, administrative leave and sick leave, for individual court reporters, subject to the requirements of the Administrative Office and the Judicial Conference.
3. The designation of work for court reporters, with the goal of distributing the court's overall workload fairly and efficiently, minimizing travel, and assuring the lowest overall cost to the court. The Clerk shall take into consideration the court's objective of having one court reporter assigned primarily to the work of each active district judge, and shall consult with the active district judge to whom the court reporter is primarily assigned before designating the court reporter to work elsewhere.
4. The designation of the court reporters' place of work, recognizing that it is the objective of the court to ensure that all court reporters are readily available to meet the needs of the court as those needs arise.
5. Monitoring the relationship between the court reporter and parties, attorneys, court staff and fellow court reporters, and evaluating the overall performance of the court reporter.
6. Monitoring all transcript/tape orders.
7. Reviewing transcripts to assure full compliance with format requirements of the Administrative Office of the United States Courts and the Judicial Conference of the United States.
8. Reviewing transcript billings to assure that authorized transcript rates are charged and that billing is in proper form. (See Appendix A for rates and Appendix B for information required to be included on all billings.)
9. Determining compliance by all court reporters with the provisions of 28 U.S.C. Sec. 753 concerning the recording, certifying, and filing of the tapes of all criminal arraignments, pleas, and proceedings in connection with the imposition of sentence.
10. Reviewing the time records of the court reporters to assure proper maintenance and accuracy.

11. Reviewing the records of the court reporters to assure the timely filing of all reports required by the Administrative Office of the United States Courts and the Judicial Conference of the United States.
12. Acting as liaison to the Court of Appeals as to matters pertinent to court reporters and transcript production.
13. Performing such other duties relating to court reporting services as shall be directed by the court, including but not limited to compilation and maintenance of records relating to leave, insurance, and other administrative benefits.
14. Providing on a monthly basis all necessary information relating to the duties set forth above.

IV.

EMPLOYMENT OF REPORTERS

The District of Nebraska is authorized one official court reporter for each active judge.

Contract reporters are hired for trials and hearings of senior judges, visiting judges and the magistrate judges whenever a full time court reporter is unavailable.

If at any time the overall work volume of the court does not justify retention of the full complement of court reporters, it will be the court's objective to achieve a reduction through relocation, attrition, or by giving reasonable notice of termination.

V.

HOURS OF EMPLOYMENT

All official court reporters now employed by the court or hired in the future shall serve under the Leave Act, 5 U.S.C. Sec. 6301, et seq., and shall earn annual and sick leave pursuant to the Act.

The court reporters' "regular tour of duty" shall be from 8:00 a.m. to 5:00 p.m., but each court reporter shall be available outside regular "tour of duty" hours as directed by the Clerk.

VI.

LEAVE POLICIES

Leave records for official court reporters placed under the Leave Act shall be maintained by the Clerk in the same manner as those of deputy clerks. All requests for leave shall be submitted via the Electronic Leave Management Resource (ELMR), and must be approved by the Clerk.

Annual and sick leave are chargeable in quarter-hour increments. All annual leave requested must be accrued before it may be used. Planned sick leave (i.e., appointments, treatments, etc.) must be requested far enough in advance to permit the scheduling of an alternate reporter. Other provisions governing use of annual and sick leave are contained in the Guide to Judiciary Policies and Procedures of the Administrative Office.

VII.

FREELANCE REPORTING

Official court reporters employed by the court are not permitted to perform any private (freelance) work of any kind during their regular tours of duty. It is the objective of the court to reduce the court reporters' cost of doing business by paying for any court reporting equipment and supplies which the court may purchase, and by providing support for the court reporters' continuing education, consistent with restrictions mandated by the Judicial Conference and Administrative Office.

VIII.

REPORTING SERVICES TO UNITED STATES MAGISTRATE JUDGES

Proceedings conducted before United States Magistrate Judges may be recorded by electronic sound recording or by a court reporter. United States Magistrate Judges shall determine which method is to be used.

IX.

CONTRACT/FREELANCE COURT REPORTERS

Contract/freelance reporters may be utilized only when all official court reporters are occupied in court reporting proceedings pursuant to the policies of the Judicial Conference of the United States.

Contract/freelance reporters may be utilized in the place of official court reporters on authorized leave pursuant to the terms of the Leave Act when no official court reporter is available to replace the official court reporter on such leave.

When official court reporters are relieved of their courtroom duties to work on transcript backlogs, which backlogs are the result of the reporters' lack of diligence, the Clerk may direct such official court reporters to pay the cost of contract/freelance reporters needed to fulfill courtroom duties. Travel of contract/freelance reporters within the district shall be limited to those occasions when no official court reporter is available to travel to the location requiring reporting service or when such use of a contract/freelance reporter would be less costly to the government overall than utilizing an official court reporter in travel status.

X.

ORDERING OF TRANSCRIPTS AND TAPES

1. Format Compliance: All official court reporters will be furnished Judicial Conference transcript format requirements (See Court Reporters' Manual, Guide to Judicial Policies and Procedures). The Clerk will monitor transcripts to ensure compliance with these requirements.

2. Written Requests for Transcripts: Written requests for transcripts are made through the Clerk and order forms will be available from the Clerk. All transcripts for appeals will be ordered on the appropriate form designated by the Court of Appeals for the Eighth Circuit. Transcripts purchased by Criminal Justice Act funds will be ordered on the appropriate CJA form. (Non-appeal transcripts purchased by private funds may be ordered by letter or form.) Transcript orders will include the case number, case name, date of proceedings to be transcribed, any additional pertinent information required to identify the material to be transcribed, and the name of the court reporter whenever possible.

3. Estimate of Cost: Upon receipt of a transcript order, the court reporter will furnish the ordering party an estimate of charges, which will serve as a deposit against the final cost. On privately paid transcript orders, unless deposit has been specifically waived by the court reporters, transcript preparation will not commence until financial arrangements have been made and the necessary deposit is received. Deposit checks should be made payable to the individual court reporter preparing the transcript.

4. Transcript Order Cancellations: No fee may be charged by official court reporters on transcript orders if pages have not been produced at the time the reporter learns that the transcript order is canceled. The ordering party is expected to pay for all transcript pages which have been

produced at the time the order is canceled. The reporter will stop production immediately upon notification of cancellation and title the transcript, "Excerpt of Proceedings."

5. Daily Copy Requests: A court reporter receiving a request for daily copy shall immediately notify the Clerk. Daily or hourly copy falls within the definition of entrepreneurial activities, and no additional official court reporter will be assigned to the task. The court reporter accepting the order for daily copy will be responsible for employing the necessary assistance.

XI.

INVOICING OF TRANSCRIPTS

A final invoice, AO Form 44, or CJA Form 24 reflecting exact charges and any adjustments by either refund or additional billings will be prepared for all transcript deliveries. Fee adjustments will be made at the time of transcript delivery. All invoices for transcripts, whether originals or copies, will be sequentially numbered. When the transcript has been completed, the original shall be filed with the Clerk.

A copy of the invoice shall also be delivered to the Clerk as it is the duty of the Clerk to monitor such invoices. Any invoice evidencing overcharging or undercharging will be returned to the court reporter for correction and adjustment; and, if appropriate, a report made to the judges en banc.

XII.

FEES FOR TRANSCRIPTS OF OFFICIAL PROCEEDINGS

1. No court reporter employed by this district shall charge fees for a transcript of official proceedings which exceed those recommended by the Judicial Conference of the United States. (See Appendix A for rates.)

2. A schedule of the prescribed fees shall be posted in a prominent location in the Office of the Clerk. Such schedule shall be in accordance with the Court Reporters' Manual Guide to Judicial Policies and Procedures. In the case of a transcript which is subject to FRAP 11(b), the reduction in fee may be waived by the Clerk of the Court of Appeals for good cause shown. Nothing contained herein should be construed as sanctioning untimely delivery, nor should this provision be considered the only penalty which can be imposed by the court or Circuit Council on habitual offenders.

3. While official court reporters are required to produce transcripts requested by a presiding judge or magistrate judge without cost to the court, it is the policy of the court not to distribute such transcripts indiscriminately so as to preclude a court reporter from charging and collecting transcript fees from the parties.

XIII.

C.J.A. TRANSCRIPTS

1. All transcripts produced for criminal defendants represented under the terms of the Criminal Justice Act shall be billed on form CJA 24.

2. In compliance with Judicial Conference policy, routine apportionment among the parties of accelerated transcript costs in Criminal Justice Act cases is prohibited.

3. In multi-defendant cases involving CJA defendants, no more than one (1) transcript should be purchased from the reporter on behalf of CJA defendants. One of the appointed counsel or the Clerk should arrange for the duplication, at commercially competitive rates, of enough copies of the transcript for each of the CJA defendants for whom a transcript has been approved. The cost of such duplication will be charged to the CJA appropriation.

4. The respective court reporter is responsible for assisting the ordering party in the proper preparation of form CJA 24.

XIV.

TIME LIMITS FOR DELIVERY OF TRANSCRIPTS

All transcripts of official proceedings prepared for the purpose of appeal shall be delivered to the ordering party and filed with the Clerk within the time limits prescribed.

Original transcripts ordered by judicial officers shall be provided to the judicial officer within the time prescribed by the order. The transcript shall be filed with the Clerk, if so directed by the judicial officer.

Neither the schedule for completion of a transcript in a case on appeal nor for a transcript of proceedings requested by a judicial officer shall be modified except by the Clerk of the Court of Appeals in cases involving appeal transcripts or the judicial officer requesting the transcript.

XV.

FILING OF SHORTHAND NOTES AND ELECTRONIC RECORDINGS

1. The notes prepared by official court reporters will be maintained as directed by the Clerk.

2. Pursuant to the provisions of 28 U.S.C. Sec. 753, court reporters must transcribe and certify all arraignments, pleas, and proceedings in connection with the imposition of sentence in criminal cases unless they have been recorded by electronic sound recording and such recording has been certified and is maintained in the office of the Clerk. Court reporters shall file a transcript of all such proceedings within thirty (30) days of their occurrence unless an electronic recording was made of the proceedings. In the event an electronic recording was made, the court reporter shall certify the accuracy of the recording and file the same with the Clerk. (See Appendix D.)

XVI.

REPORTS REQUIRED TO BE FILED WITH THE COURT REPORTING SECTION

OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

1. The following reports shall be prepared by each official court reporter according to the schedule below:

a. The report of Attendance and Transcripts of the United States Court Reporters (AO 40A), reviewed and signed by the Clerk, shall be prepared quarterly. A report for each calendar quarter shall be submitted to the Court Reporting Section, Administrative Office of the United States Courts, Washington DC 20544, so that it reaches the office within twenty (20) days after the end of the quarter. A copy of this report shall also be filed with the Clerk.

b. The Statement of Earnings of the United States Court Reporters (AO 40B) shall be prepared annually by all official court reporters. This report shall be mailed to the Court Reporting Section, Administrative Office of the United States Court, Washington, DC 20544, within sixty (60) days after the end of the calendar year. A copy of this report shall also be filed with the Clerk.

2. Each recorder shall prepare the Electronic Court Recorder Operator Quarterly Report (AO 40C) quarterly. A report for each calendar quarter shall be submitted to the Court Reporting Section; Administrative Office of the United States Courts; Washington, DC 20544, so that it reaches the office within twenty (20) days after the end of the quarter. A copy of this report shall also be filed with the Clerk.

XVII.

SUBSTITUTE COURT REPORTERS

In the event it is determined that a court reporter has overdue transcript(s), said reporter may be required to hire and pay substitute reporters until such time as the overdue transcripts have been prepared. The court reporter shall have the responsibility for the transcript production of any substitute reporter(s) so hired. A court reporter shall not use substitute reporter(s) without the prior approval of the Clerk.

XVIII.

RECORDS TO BE MAINTAINED BY COURT REPORTERS

In order to permit the routine audit and inspection of records, official court reporters must maintain accurate, legible, and up-to-date records of their expenses, attendance in court, transcript

orders, and invoices. Such records shall be maintained on forms prescribed by the Judicial Conference of the United States and shall include, but are not limited to, the following:

1. AO 37---Expense Ledger
2. AO 38---Attendance Ledger
3. AO 39--Transcript Order/Collections Ledger
4. AO 44--Invoice

XIX.

TRANSCRIPT BACKLOGS

The Clerk is authorized to take necessary steps to reduce or eliminate transcript backlogs or production delays. Such steps may include, but are not necessarily limited to the following:

1. Use of substitute or additional reporters;
2. Reassignment or rotation of official court reporters;
3. Requiring official court reporters to hire substitutes at their own expense if a court reporter's unavailability is due to transcript production;
4. Institution of progressive discipline, including termination of any official court reporter, with the approval of the court en banc.

XX.

MISCELLANEOUS PROVISIONS

1. The work of all court reporters shall be "note-readable" so that the notes of a court reporter can be read by another reporter if necessary.

2. The marking, filing and storing of all notes and tapes shall be in accordance with the note storage procedures outlined in this Plan. (See Appendix D.)

3. Annual performance appraisals for all official court reporters shall be conducted by the Clerk, in consultation with the active district judge to whom that court reporter is primarily assigned.

4. Discipline and/or sanctions of court reporters shall be pursuant to the provisions of this Plan and/or the Personnel Manual of the court.

ADOPTED, APPROVED, and EFFECTIVE the 1st day of July, 1991, and revised this 1st day of November, 2002.

s/ Richard G. Kopf
Richard G. Kopf, Chief Judge
United States District Court
District of Nebraska

APPENDIX A

TRANSCRIPT FEE RATES¹

	<u>Original</u>	<u>1st Copy to Each Party</u>	<u>Each Additional Copy to Same Party</u>
<u>ORDINARY RATE</u>	\$3.30	\$.83	\$.55
<u>EXPEDITED RATE</u>	\$4.40	\$.83	\$.55
<u>DAILY RATE</u>	\$5.50	\$1.10	\$.83
<u>HOURLY RATE</u>	\$6.60	\$1.10	\$.83
<u>REALTIME RATE²</u>	\$2.75	\$1.10	- - -

The above rates are applicable to each page of transcript, excluding the certification page which must be at the end of each volume of transcript.

DEFINITION OF METHOD OF TRANSCRIPTION:

ORDINARY: Transcript to be delivered within 30 days.

EXPEDITED: Transcript to be delivered within 7 days.

DAILY: Transcript to be delivered following adjournment and prior to the normal hours of court on the following morning whether or not it actually be a court day.

HOURLY: Transcript (ordered under unusual circumstances) to be delivered within 2 hours.

REALTIME: Realtime reporting technologies allow the stenotype record to be electronically transcribed in the courtroom using software that translates the shorthand instantaneously and displays it on a monitor in front of the reporter, judge, attorneys or other participants.

NOTE: For multi-defendant criminal cases involving CJA defendants, please refer to Section XIII.3 or XIV.3 of this Plan.

¹Pursuant to General Order 2003-02.

²When ordering a realtime transcript, \$2.75 is added to the ordinary, expedited, daily or hourly rate.

APPENDIX B

INFORMATION REQUIRED TO BE INCLUDED ON ALL BILLINGS

1. Name of Client.
2. Criminal or Civil.
3. Date Ordered.
4. Date Delivered.
5. In the Matter of.
6. Number of Pages.
7. Number of Copies.
8. Type of Delivery Schedule.
9. Discount.
10. Refunds.
11. Total Due.
12. Certification of Reporter of Compliance with Fee and Transcript Format Prescribed by the Judicial Conference.

Form AO 44, Invoice, is available (free of charge) from the Administrative Office of the U.S. Courts for use by court reporters.

APPENDIX C

COMPUTATION OF TRANSCRIPT DELIVERY DATES

Transcripts delivery dates are computed from:

- a. The date on which satisfactory financial arrangements are made, except for transcripts to be paid for by the United States or free copies ordered by the court;
- b. The date on which the appropriate Transcript Order or CJA 24 form is received by the court reporter when the transcript is to be paid for by the United States;
- c. The date on which the court order is provided to the court reporter when a transcript has been ordered by a judicial officer.

APPENDIX D

PROCEDURES FOR STORAGE OF COURT REPORTERS' NOTES AND TAPES

All shorthand notes and tapes are to be turned over to the Clerk within 90 days after the conclusion of the proceeding. If a transcript is ordered in a case on which the notes have been submitted to the Clerk, the court reporter shall retrieve the notes from storage and shall refile the notes when the transcript is completed.

Procedures for Storage of Shorthand Notes

1. All notes shall be filed chronologically and placed in FRC boxes which can be obtained from the Clerk's Office.
2. The outside of the box should be marked with a label indicating the court reporter's full name, the calendar year and the month and dates of the notes contained therein.

For example:

"Robert Jones Box - 02-01
January 1 to 31, 2002"

3. If the notes for a particular month are too voluminous to be stored in one box, the court reporter shall use as many boxes as necessary and identify them in sequence; e.g., Box 02-1 (A), Box 02-1 (B), Box 02-1 (C), would all contain notes for January 2002. Conversely, if the notes for a particular month do not fill one box, the notes for several months may be stored in one box as long as it is identified as follows: Box 02-1, 02-2, 02-3.
4. Each packet of notes shall be certified and include the case number, case caption, presiding judge, date of proceeding and court reporter's full name.
5. In order to maintain the security of their shorthand notes, it is recommended that each court reporter place their notes in containers on a daily basis and secure them at the end of the day within their office.

Procedures for Storage of Original Tape Recordings

In accordance with 28 U.S.C. Sec. 753(b), court reporters are required to file with the Clerk either a transcript or an electronic sound recording of all arraignments, pleas, sentences and other proceedings required by the court. Accordingly, all tape recordings of official proceedings are to be turned over to the Clerk within ninety (90) days after conclusion of a proceeding. Each tape, or series of tapes if they pertain to one trial, must be accompanied by a Filing Certification Form for Tape Recordings (Enclosure 2).

UNITED STATES DISTRICT COURT
DISTRICT OF NEBRASKA

FILING CERTIFICATION FORM FOR ORIGINAL NOTES

In accordance with 28 U.S.C. Sec. 753(b), I certify that these original notes are a true and correct record of proceedings held in the United States District for the District of Nebraska on the ____ day of _____, 20____, pertaining to the following:

Case Number

Case Caption

Judicial Officer

By:

Signature of Court Reporter

CERTIFICATE OF OFFICIAL COURT REPORTER

TO: CLERK, UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA OF OMAHA.

I, _____, certify that I am a duly appointed official court reporter for the United States District Court named above, and that I was present in the courtroom of said court on the _____ day of _____, 20____ and in the regular course of my profession made an electronic sound recording of the proceedings, including the arraignment, plea, and sentence proceedings had in the following cases:

Docket Number	Name of Defendant	Nature of Proceeding (Arraignment, plea, sentence)

I have played back said recording and certify that it is a true and correct record of the proceedings had, that it is sufficiently intelligible when played on a _____, (Make and Model of Machine) that it can be transcribed without undue difficulty, and that I have filed the original of said recording in the envelope to which this certificate is attached. I further certify that I have filed my original (shorthand notes) (other record) taken of these proceedings with the Clerk as required by 28 U.S.C. Sec. 753(b) as amended.

Signature

Place

Date

XXI.

REVISION CONTROL REPORT

Item Revised	Date Revised	Reason for Revision	Eighth Circuit Approval
VI.	March 27, 2003	<p>On March 4, 2003, the United States District Court for the District of Nebraska requested Eighth Circuit Judicial Council approval to amend our court reporter plan. We requested permission to make a change in paragraph VI of the court reporter plan to allow us to use the new automated leave system, known as ELMR, which we have installed throughout our court. The change was approved as reads as follows:</p> <p>VI. <u>LEAVE POLICIES</u></p> <p>Leave records for official court reporters placed under the Leave Act shall be maintained by the Clerk in the same manner as those of deputy clerks. All requests for leave shall be submitted on form OPM-71, <i>Application for Leave via the Electronic Leave Management Resource (ELMR)</i>, and must be approved by the Clerk.</p>	March 20, 2003